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FOR FREEDOM OF THE PRESS

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*Affiliations appear only
for purposes of identification.*

By email

November 4, 2020

Chief Mary Cole
Graham Police Department
216 S. Maple Street
Graham, NC 27253

Lt. Daniel Sisk
Public Information Officer
Graham Police Department
216 S. Maple Street
Graham, NC 27253

The Honorable Sean Boone
Alamance County District Attorney's Office
212 W. Elm Street
Graham, NC 27253

Re: Arrest of journalist Tomas Murawski

Dear Chief Cole and District Attorney Boone:

The undersigned are members of state and local news media, national news organizations with properties in North Carolina, wire services, and nonprofit groups that protect the rights of journalists to gather and report news. We write to ask that your offices take immediate steps to prevent another incident like the arrest of Tomas Murawski, a reporter for the *Alamance News*, who was forcibly arrested by Graham Police officers and charged with obstruction in the lawful course of his reporting on a demonstration.

We urge that the charges against Mr. Murawski be dismissed promptly. Further, the public interest would be served by an accounting from the Police Department explaining why he was arrested in the first place. We understand Mr. Murawski was charged with resisting, delaying or obstructing a public officer, but recordings of the encounter do not support that charge. See N.C. Gen. Stat. § 14-223 (providing for misdemeanor liability where “any person shall willfully and unlawfully resist, delay or obstruct a public officer”); Zachary Eanes & Carli Brosseau, *March to Alamance Polls Ends with Police Using Pepper-Spray on Protesters, Children, News & Observer* (Oct. 31, 2020), <https://bit.ly/2GjS8IO> (“A video of the incident shows no sign that the reporter was resisting.”).

“Every Circuit Court of Appeals to address th[e] issue . . . has held that there is a First Amendment right to record police activity in public.” *Fields v. City of Philadelphia*, 862 F.3d 353, 355 (3d Cir. 2017); *see also*

Williams v. Strickland, 917 F.3d 763, 769 (4th Cir. 2019) (explaining that a “robust consensus of persuasive authority” suffices to deny law enforcement officers legal immunity for violating constitutional rights). As the U.S. Department of Justice has explained, this right to document police activities is “not only required by the Constitution” but also “consistent with our fundamental notions of liberty.” Statement of Interest of the United States, *Sharp v. Baltimore City Police Dep’t*, No. 1:11-cv-02888-BEL (D. Md. filed Jan. 10, 2012). For just that reason, offenses such as “disturbing the peace” or “resisting arrest” are rightly viewed “skeptically” when deployed against reporters. Statement of Interest of the United States, *Garcia v. Montgomery Cty.*, No. 8:12-cv-03592-JFM (D. Md. filed March 4, 2013).

According to the publisher of the *Alamance News*, Mr. Murawski was arrested after being ordered to leave the street, where he was photographing law enforcement’s response to the demonstration. See Eanes & Brosseau, *supra*. But to the extent officers may order individuals who are exercising their First Amendment rights to move or disperse, such orders must be narrowly tailored to accommodate lawful reporting. See *Index Newspapers v. U.S. Marshals Service*, 2020 WL 5988501, at *9, – F.3d – (9th Cir. 2020). At the absolute minimum, the First Amendment requires that such orders be accompanied by fair warning and a reasonable opportunity to comply. See *Jones v. Parmley*, 465 F.3d 46, 60 (2d Cir. 2006) (Sotomayor, J.); *Dellums v. Powell*, 566 F.2d 167, 181 n.31 (D.C. Cir. 1977).

Based on recordings of the incident, it appears that the Department’s arrest of Mr. Murawski violated these First Amendment rights. As state and local media have reported, videos from the scene do not support the claim that Mr. Murawski resisted officers, nor does he appear to have been given a chance to comply with the order to move. See Eanes & Brosseau, *supra*. And there is no serious question that officers should have known that Mr. Murawski, whose camera they grabbed while bystanders chanted “He’s press,” was present in his capacity as a journalist. See Julia Wall, *Journalist Arrested in Graham, NC at Protest*, News & Observer (Oct. 31, 2020), <https://bit.ly/3kSiVv0>.

Please find linked below a series of letters sent this summer to various jurisdictions by the Reporters Committee and media coalitions, laying out steps law enforcement officials should take immediately to protect reporters engaged in lawful newsgathering.¹ To support the strong public interest in local coverage of law enforcement activity, we urge that the Police Department implement these steps in the

¹ See, e.g., *Reporters Committee Condemns Arrest of Journalist Josie Huang*, Reporters Comm. for Freedom of the Press (Sept. 16, 2020), <https://perma.cc/DJ7Z-H2GR>; *Letter to California Governor Denounces Police Attacks on Journalists*, Reporters Comm. for Freedom of the Press (July 8, 2020); <https://perma.cc/EYQ5-CUS6>; *In Letter to New York Officials, Reporters Committee Denounces Police Attacks Journalists*, Reporters Comm. for Freedom of the Press (June 7, 2020), <https://perma.cc/3ZJF-4NY5>; *Reporters Committee Letter to Minnesota Officials Denounces Polices Attacks on Journalists*, Reporters Comm. for Freedom of the Press (June 2, 2020), <https://perma.cc/CF4Q-9K2K>.

City of Graham. And, again, we urge that the obstruction citation against Mr. Murawski be dismissed.

Please do not hesitate to contact Bruce Brown, Executive Director of the Reporters Committee, with any questions at bbrown@rcfp.org.

Sincerely,

The Reporters Committee
for Freedom of the Press

The Charlotte Observer
Committee to Protect Journalists
Free Press
Freedom of the Press Foundation
Fundamedios Inc.
Gannett Co., Inc.
Hearst Corporation
The Herald-Sun
International Documentary Association
The Media Institute
MPA - The Association of Magazine Media
National Association of Broadcasters
National Press Club
National Press Club Journalism Institute
National Press Photographers Association

News Leaders Association
The News & Observer
North Carolina Association of
Broadcasters
North Carolina Open Government
Coalition
North Carolina Press Association
Online News Association
PEN America
Radio Television Digital News
Association
Society of Environmental Journalists
Society of Professional Journalists
Tully Center for Free Speech

cc: Sheriff Terry Johnson
Alamance County Sheriff's Department
109 S. Maple Street
Graham, NC 27253